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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,655	07/18/2003	Erick B. Knezek	027452-0102	1049

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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

LEE, JONG SUK

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,655

Applicant(s)

KNEZEK ET AL.5

Examiner

Jong-Suk (James) Lee

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 18 and 21-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/18/03 & 12/30/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restriction

1. Applicant's election of Group I directed to claims 1-17, 19 and 20 in the reply filed on August 6, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, **the election has been treated as an election without traverse (MPEP § 818.03(a)).**

Claims 18 and 21-24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

2. The corrected or substitute drawings were received on August 19, 2003. These drawings are formal and acceptable.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3673

4. Claims 1, 2, 5-8, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Wooley et al (US 2003/0136325).

Wooley et al discloses a barrier unit structure for a marine surface vessel comprising of: a composite-based durable barrier structure (12, 15), the barrier structure configured to hold a net (17) in place, wherein the protection apparatus protects an area in the body of water or abutting the body of water from waterborne craft, the structure including a beam (12) that spans an entire length of the barrier, wherein the beam is a composite-based structure in a range of 40 to 50 feet in length (see para. [0067]), the structure further comprising a plurality of net holding units (15) coupled to the beam (78) and disposed above the beam when the protection apparatus is placed in the body of water, the plurality of holding units configured to hold the net in place on, wherein the composite-based durable barrier structure is a fiberglass reinforced plastic durable barrier (see para. [0066]), a plurality of pontoons (74, 84) coupled to the barrier structure (12, 15) and configured to act as a floating component for the protection apparatus when the protection apparatus is placed in the body of water and a plurality of connectors for the adjacent barrier units as depicted in Fig. 12).

Further Murray discloses an inherent method of protecting a region either in a body of water or adjacent to the body of water comprising: constructing a composite-based durable barrier structure, the barrier structure configured to hold a net in place, wherein the barrier structure including a plurality of composite barrier units connected together via connectors, and placing the composite barrier structure in the body of water, to thereby provide protection for the region (see Figs. 1-8 and 12-13; para. [0042]-[0069]).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wooley et al in view of Priam-Doizi (US 4,562,785). The teachings of Wooley et al. have been discussed above.

Wooley et al fails to disclose or fairly suggest at least three pontoons in a row with one in the center being larger than the other two in sides. Priam-Doizi discloses a self-stable trimaran discloses a plurality of pontoons including at least three pontoons (4-6), wherein a first pontoon (4) is coupled to a portion of the barrier structure adjacent to end of the barrier structure, wherein a second pontoon (5) is coupled to a portion of the barrier structure adjacent to an opposite end of the barrier structure, and wherein a third pontoon (6) is coupled to a portion of the barrier structure corresponding to a position halfway between the two ends of the barrier structure (see Figs. 1 and 4: col.2, lines 48-66).

Therefore, in view of Priam-Doizi, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the pontoons of Wooley et al by

Art Unit: 3673

including three pontoons with different size in order to enhance stability of the barrier structure and to diminish the risks of capsizing.

7. Claims 9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wooley et al in view of German Patent Application (DE 196 35 824). The teachings of Wooley et al. have been discussed above.

Wooley et al fails to disclose or fairly suggest each connector include a tensile member and dampening member. German Patent Application '824 discloses a connection device for tying pontoons together including a connector having a tensile member/cable/chain (2) and a dampening member (3) including a polymer material and a rubber outer structure fitted around the polymer material and first and second connecting sections respectively provided at first and second ends of the connector, each connecting section including the dampening member and being sized to fit into holding sections (4, 9-12) of brackets being rigidly coupled to end of the barrier units (see Fig. 1, English translated abstract).

Therefore, in view of German Patent Application '824, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to add the tensile and dampening members to the connector portion of the Wooley et al's apparatus in order to avoid the impact pressure between the barrier structure caused by wave or current in the body of water.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references cited disclose a torpedo guard net, a floating wave dissipation structure and an apparatus and method for protecting ships and harbors from attack by vessels.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (703) 308-6777. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Lee /jjl
September 10, 2004


Jong-Suk (James) Lee
Primary Examiner
Art Unit 3673